

APPEAL NO. 040315
FILED APRIL 2, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 13, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____, and did not have disability. The claimant appeals, arguing that the compensable injury and disability determinations are so against the great weight and preponderance of the evidence that it is manifestly unjust. The respondent (carrier) responded, contending that there is sufficient evidence to support the determinations of the hearing officer.

DECISION

Affirmed as reformed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____. The claimant had the burden of proof on the injury issue and it presented a question of fact for the hearing officer to resolve. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Conflicting evidence was presented on the disputed issues. The hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The weight and credibility to be given to the testimony presented was solely within the province of the hearing officer. Section 410.165(a). In this instance the hearing officer was not persuaded that the claimant sustained an injury in the course and scope of employment as alleged. The hearing officer was acting within her province as the fact finder in so finding. Nothing in our review of the record demonstrates that the hearing officer's injury determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust; therefore, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because we have affirmed the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that he did not have disability.

We reform the decision of the hearing officer to correct an omission and conform the decision to Finding of Fact No. 4 and Conclusion of Law No. 2. The decision is reformed to read as follows: Claimant did not sustain a compensable injury on _____, and has not had disability resulting from an injury sustained on _____.

We affirm the decision and order of the hearing officer as reformed.

The true corporate name of the insurance carrier is **NATIONAL AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DAVID W. MCLANE
1601 ELM STREET, SUITE 3000
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge